HIGH COURT OF CHHATTISGARH, BILASPUR

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

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Second Appeal No. 489 of 2007

Appellant Defendant	:		Naarad S/o Shyam lal Kaushik, aged 33 years, Caste-Lodhi, R/o Bandhwapara Sarkanda, Tahsil & Distt. Bilaspur (C.G.)
			Versus
Respondents Plaintiff	:	1.	Munna Lal Sahu, Aged about 35 years, S/o Aashram Sahu R/o Bandhwapara Sarkanda, Tahsil & Distt. Bilaspur (C.G.)
	:	2.	State of Chhattisgarh, Through Collector, Bilaspur (C.G.)

Second Appeal under Section 100 of the Code of Civil Procedure

Present:-

Shri Sanjay Patel, counsel for the appellant/defendant.

ORAL ORDER
(Passed on 17.11.2007)

Heard on I.A.No.01 of 2007 for condonation of delay of 225 days in filing this appeal.

2. It is not disputed by the learned counsel for the appellant that in Civil Suit No. 104-A of 2005, the appellant/defendant was served with a notice of the suit but deliberately remained *ex parte*. This is also borne out from paragraph 2 of the application for condonation of delay. The trial Court had dismissed the plaintiff's suit. The impugned judgment and decree dated 03.01.2007 passed in Civil Appeal No. 5-A of 2006 by the 3rd Additional District Judge, Bilaspur also shows in paragraph 4 that the appellant/defendant was served with a notice of the first appeal but remained absent. The only ground mentioned in the application for condonation of delay is that the appellant came to know about the impugned judgment and decree dated 03.01.2007 on 12.11.2007 when the process server of the Executing Court served a notice of execution on him. This clearly shows that

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despite service of notice, the appellant/defendant remained in slumber not only before the trial Court but also before the first appellate Court. No sufficient explanation is to be found in the application as to whether the appellant made any effort to know the result of the suit or the first appeal at any point of time. In this view of the matter, ~~there~~ sufficient cause for condonation of delay in filing this appeal is not made out.

3. I.A.No.1 for condonation of delay is dismissed. As a result, this appeal is also dismissed as barred by limitation.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani